

A Bill to amend the law relating to the Transfer of Property by Act of Parties.

Preamble. WHEREAS it is expedient to define and amend certain parts of the law relating to the transfer of property by act of parties; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Regulation may be called the 'Transfer of Property Regulation.'

Commencement.

It shall come into force on the first day of

Extent.

It extends to the whole of Mysore.

2. The enactment specified in the schedule hereto annexed shall be repealed to the extent therein mentioned. But nothing herein contained shall be deemed to affect—

Repeal.

Saving of certain enactments, incidents, rights, liabilities, etc.

(a) the provisions of any enactment not hereby expressly repealed:

(b) any terms or incidents of any contract or constitution of property which are consistent with the provisions of this Regulation and are allowed by the law for the time being in force:

(c) any right or liability arising out of a legal relation constituted before this Regulation comes into force, or any relief in respect of any such right or liability: or

(d) save as provided by section 57 and Chapter IV of this Regulation any transfer by operation of law or by, or in execution of, a decree or order of a Court of competent jurisdiction:

and nothing in the second chapter of this Regulation shall be deemed to affect any rule of Hindu, Muhammadan or Buddhist law.

Interpretation clause.

3. In this Regulation, unless there is something repugnant in the subject or context,—

"immovable property" does not include standing timber, growing crops or grass:

"instrument" means a non-testamentary instrument:

"registered" means registered in Mysore under the law for the time being in force regulating the registration of documents:

"attached to the earth" means—

(a) rooted in the earth, as in the case of trees and shrubs;

(b) imbedded in the earth, as in the case of walls or buildings; or

(c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached:

"actionable claim" means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;

and a person is said to have "notice" of a fact when he actually knows that fact, or when but for willful abstention from an enquiry or search which he ought to have made, or gross negligence, he would have known it, or when information of the fact is given to or obtained by his agent under the circumstances mentioned in the Indian Contract Act, 1872, Section 229.

Enactments relating to contracts to be taken as part of Contract Act.

4. The chapters and sections of this Regulation which relate to contracts shall be taken as part of the Indian Contract Act, 1872.

And sections 54, paragraphs 2 and 3, 59, 94 and 110 shall be read as supplemental to the Mysore Registration Regulation, 1903.

CHAPTER II.

OF TRANSFERS OF PROPERTY BY ACT OF PARTIES.

(A) *Transfer of Property whether movable or immovable.*

5. In the following sections, "transfer of property" means an act by which a living person conveys property in present or in future, to one or more other living persons, or to himself and one or more living persons; and "to transfer property" is to perform such act.

6. Property of any kind may be transferred, except as otherwise provided by this Regulation or by any other law for the time being in force.

- (a) The chance of an heir-apparent succeeding to an estate, the chance of a relation obtaining a legacy on the death of a kinsman, or any other mere possibility of a like nature, cannot be transferred.
- (b) A mere right of re-entry for breach of a condition subsequent cannot be transferred to any one except the owner of the property affected thereby.
- (c) An easement cannot be transferred apart from the dominant heritage.
- (d) An interest in property restricted in its enjoyment to the owner personally cannot be transferred by him.
- (e) A mere right to sue cannot be transferred.
- (f) A public office cannot be transferred, nor can the salary of a public officer, whether before or after it has become payable.
- (g) Stipends allowed to military and civil pensioners of Government and political pensions cannot be transferred.
- (h) No transfer can be made (1) in so far as it is opposed to the nature of the interest affected thereby, or (2) for an unlawful object or consideration within the meaning of section 23 of the Indian Contract Act, 1872, or (3) to a person legally disqualified to be transferee.
- (i) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy or the farmer of an estate in respect of which default has been made in paying revenue to assign his interest as such tenant or farmer.

7. Every person competent to contract and entitled to transferable property, or authorized to dispose of transferable property, not his own, is competent to transfer such property either wholly or in part, and either absolutely or conditionally, in the circumstances, to the extent and in the manner allowed and prescribed by any law for the time being in force.

8. Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof.

Such incidents include, where the property is land, the easements annexed thereto, the rents and profits thereof accruing after the transfer, and all things attached to the earth;

and, where the property is machinery attached to the earth, the movable parts thereof;